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September 29, 2017

British Columbia Public Interest Advocacy Centre Suite 208 – 1090 West Pender Street Vancouver, B.C. V6E 2N7

Attention: Ms. Leigha Worth, Executive Director

Dear Ms. Worth:

Re: FortisBC Energy Inc. (FEI)

Project No. 1598915

Application for Approval of Operating Terms between the City of Surrey and FEI (the Application)

Response to the British Columbia Public Interest Advocacy Centre representing the British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Disability Alliance BC, Council of Senior Citizens' Organizations of BC, and the Tenant Resource and Advisory Centre *et al.* (BCOAPO) Information Request (IR) No. 1

On May 18, 2017, FEI filed the Application referenced above. In accordance with the British Columbia Utilities Commission Order G-98-17 setting out the Regulatory Timetable for the review of the Application, FEI respectfully submits the attached response to BCOAPO IR No. 1.

If further information is required, please contact Ilva Bevacqua at 604-592-7664.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Diane Roy

Attachments

cc (email only): Commission Secretary

Registered Parties



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FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application) Response to British Columbia Public Interest Advocacy Centre representing the British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Disability Alliance BC, Council of Senior Citizens' Organizations of BC, and the Tenant Resource Submission Date: September 29, 2017 Page 1

1.0	Reference:	Exhibit B1-1, Application, Section 3.2, Cost Apportionment re: High
		Pressure Pipelines, page 11

and Advisory Centre et al. (BCOAPO) Information Request (IR) No. 1

"All of FEI's operating agreements – including the 1957 Agreement, agreements with other Lower Mainland municipalities, and the more recently approved agreements with Vancouver Island and Interior municipalities – contain allocation provisions that differ from the allocation proposed for the City.

Under FEI's Proposed Operating Terms, Surrey will be better off than any other Inland Vancouver Island municipality with an FEI operating agreement."

1.1 Given that we are now in a situation where negotiations between FEI and the City have stalled, where no other municipality has allocations like that proposed by either the City or FEI, and the Commission now has the jurisdiction to adjudicate this matter, please explain the justification for continuing to propose an allocation more favourable than in other municipalities.

15 **Response**:

- FEI supports continuing to propose an allocation of costs associated with High Pressure Pipelines more favorable than in other municipalities since, when considered together with other operating provisions contained within the Proposed Operating Terms, the terms create a balanced framework of benefits to both FEI customers and Surrey's taxpayers.
- 20 Please also refer to the response to BCUC IR 1.4.5.



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2.0 Reference: Exhibit B1-1, Application, Section 3.3.1, page 14, 1957 Agreement and Other Lower Mainland Agreements Do Not Provide for an Operating Fee

2.1 "FEI and its contractors are, in many instances, having to pay the fees in order to avoid disputes and complete the work efficiently and in a timely manner. FEI also accepts there are benefits associated with a good working relationship with municipalities and believes introducing a fee of some form will improve the working relationship with Surrey and thus facilitate FEI's day-to-day operations."

Given that the Commission is now adjudicating this matter and will resolve this dispute by ordering the terms of a new operating agreement that will clarify those matters left ambiguous in the 1959 Agreement, please explain why an Operating Fee is still required to improve working relations with the City of Surrey.

Response:

There is, as suggested in the question, a benefit to the certainty provided by the Commission's determination of ambiguous issues under the original operating agreement. There is still a role for an Operating Fee, provided the amount is fair. An Operating Fee is a mechanism to streamline the municipal approval and permit processes, reducing administrative cost and improving efficiencies for both the Municipality and the Company, ultimately resulting in improved service to natural gas customers. FEI believes that the Operating Fee it has proposed takes into account the above benefits. FEI believes that the Operating Fee proposed by Surrey exceeds what can be considered a fair amount in the circumstances of this municipality, and represents both a windfall to Surrey and an undue burden on FEI's customers in the Municipality.



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1	3.0	Refer	ence: Exhibit B1-1, Application, Section 3.3.3.1, pp 15-16, Calculation of				
2			Proposed Operating Fee, Process				
3 4 5 6		FEI proposes an Operating Fee to be calculated as 0.7% of Delivery Margin in order cover estimated 2016 Permit and Cut Fees to Surrey, Operating Efficiencies, ar Avoidance of Litigation components. Alternatively, there is a proposal to base this fee on Gross Revenue.					
7 8 9		3.1	Please confirm that FEI's proposal is based on approved delivery margin: if unable to so confirm, please explain.				
10	Resp	onse:					
11 12 13 14 15	Not confirmed. As noted in Section 3.3.3.1 of the Application, FEI's proposal is based on actual Delivery Margin revenue, at approved rates, which would reflect actual consumption on customers' bills. This is consistent with how Operating Fees are collected from other municipalities that have Operating Fees in place (although they are collected based on gross revenue).						
16 17							
18 19 20 21 22 23		3.2	Please provide a table showing the ten most recently available years of data for delivery margin and gross revenue attributable to Surrey on the same basis (e.g., approved margin or actual margin) as the response to the previous part of this IR.				
24	Resp	onse:					
25	Please refer to the response to BCUC IR 1.5.3.						
26 27							
28 29 30 31		3.3	Please explain whether there would be a change in FEI's 0.7% proposal if, in its decision, the BCUC determined that there would be a clear allocation of relocation costs for gas mains and high pressure pipe but this allocation differed				

from FEI's proposal regarding allocation of relocation costs.



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1 Response:

- 2 FEI believes that the Commission should consider the impact of all of the approved terms
- 3 together so as to ensure that the overall result is fair to FEI and its customers as well as Surrey.
- 4 As such, it may, depending on the nature of the change to the relocation cost allocation, be
- 5 appropriate to consider whether the amount of the Operating Fee (the percentage of Delivery
- 6 Margin) still achieves the appropriate overall balance. FEI believes the Operating Fee should
- 7 be based on a percentage of Delivery Margin regardless, for the reasons described in the
- 8 Application and other IR responses (refer for instance to the response to BCOAPO IR 1.3.11).
- 9 The costs that FEI would incur as a result of municipally-requested relocations are potentially
- 10 very significant in a rapidly developing municipality like Surrey. FEI believes that allocating a
- 11 greater portion of the costs of relocation to FEI than what has been proposed would materially
- 12 erode benefits to FEI under the Proposed Operating Agreement. Any material change like this
- should be factored into FEI's proposal, directionally reducing the Operating Fee from what FEI
- has proposed or what the Commission would otherwise approve.

0.7% of Delivery Margin? Please explain.

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Response:

No, that is not FEI's intent. While the Permits and Cut Fees are a component of the Operating Fee formula FEI has proposed, it was intended to establish a reasonable Operating Fee which is fair to both parties, and calculated on a principled basis derived from information specific to Surrey. FEI's proposal is that the percentage of the Operating Fee would be consistent for the life of the operating agreement. Even though the Company's position is that we are not required to pay Permit Fees, their inclusion in the calculation was meant to serve as a proxy for the volume of construction activity within the City, as a way to recognize the City's work in managing the relationship with FEI.

In the event that in the future, Surrey's Permit and Cut Fees were increased

materially, would this possibly require or trigger a revisitation of FEI's proposal of

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3.5 Please provide all the direct costs associated with the Fees and Permits paid to the City of Surry for each year starting in 2014.



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1 2 Response:

3 Please refer to the response to BCUC IR 1.5.5.

3.6 Please quantify the administrative and legal costs incurred in dealing with the City for each year starting in 2014.

Response:

FEI is unable to specifically quantify administrative and legal costs related to dealing with the City on a per annum basis as costs are not captured or broken down in this manner. Various departments, employees, contractors and other representatives of FEI interact with the City on a day-to-day basis with respect to FEI's own work and operations, the works of third parties and the City's work in and around or affecting FEI infrastructure. Disputes arising from that work may be addressed at a staff level, through escalation to senior management, or by internal or external legal counsel. As noted in Section 3.3.3.1 of FEI's Application, FEI has estimated \$100 thousand for avoidance of litigation based on the Proposed Operating Agreement, but this does not reflect costs previously incurred.

3.7 Please quantify for each of those years (2014 to present) how much of those costs would be exempt under FEI's proposal, and how much would remain payable?

Response:

The City bylaw regarding Permit and Cut Fees only came into effect in 2016. In the hypothetical circumstances where the Proposed Operating Agreement applied since 2016, no Permit or Cut fees would have been paid to the City of Surrey (an Operating Fee would have been collected from customers and payable instead). No litigation took place during the 2014-2016 period.



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3.8 FEI's proposal is based on 2016 estimates. Does FEI have any data which would support the 0.7% proposal as having been appropriate for years prior to 2016? If so, please provide.

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Response:

FEI based its proposal on 2016 estimates because, as noted in Section 2.2 of the Application, City bylaw changes have resulted in increased requests for FEI to apply for permits and pay fees which would not be relevant to prior years. FEI has provided the estimates of the 0.7 percent of delivery margin proposal for the prior years in the response to BCUC IR 1.5.3; however, as noted above, the proposal is premised on the change in circumstances which occurred in 2016.

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3.9 Please explain why FEI believes that the 0.7% proposal will continue to be appropriate for future years as circumstances change.

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Response:

- 20 FEI recognizes that in any year, circumstances will change resulting in year to year variances.
- 21 However, based on current conditions and future projections, FEI feels the proposed Operating
- 22 Fee will continue to provide value to customers and taxpayers through stabilization and certainty
- 23 until expiration of the operating agreement.
- 24 While changing circumstances take place from year to year in all municipalities, the opportunity
- 25 to revisit the appropriateness of an Operating Fee amount is at time of renewal of an operating
- 26 agreement. The Operating Fee based on Delivery Margin proposed by FEI removes the
- 27 volatility of commodity prices, and as such will be more stable for FEI's customers in the City of
- 28 Surrey as well as for the City of Surrey itself. Please also refer to the response to BCUC IR
- 29 1.5.4.

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Did FEI consider any other approaches to calculating an Operating Fee that 3.10 would reflect actual costs incurred by Surrey? If so, please describe.



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1 Response:

- 2 FEI considered the approach used in Interior and Vancouver Island municipalities (which is akin
- 3 to the approach advanced by Surrey in this proceeding). FEI determined that the approach
- 4 should be more principled, and that the approach favoured by Surrey and used in other
- 5 agreements results in an excessive Operating Fee in the context of this municipality (particularly
- 6 where Surrey does not currently receive Operating Fees).
- 7 In our discussions with Surrey we did consider other approaches to reflect actual cost and value
- 8 to the City taxpayers and Company customers. However, those discussions were "without
- 9 prejudice", so detail cannot be provided. The FEI proposal was deemed to be the fairest

Please describe how FEI's operating fee proposal would need to be revised were

it to be based entirely on principles of cost causation under existing regulatory

approvals and existing practices with respect to FEI's arrangements with Surrey.

10 approach by the Company.

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Response:

- Cost causation principles have informed FEI's proposal, and are one of the key reasons why
- FEI believes that the City's proposed Operating Fee is too high.
- 21 First, tying the collection of the fee to the Delivery Margin, rather than gross revenues, links the
- 22 Operating Fee to the physical system and operations in Surrey. Gross revenues, by contrast,
- are significantly affected by commodity costs. The amount and value of the commodity flowing
- through the pipes has little to do with the costs of operation or Surrey's costs of managing its
- 25 relationship with FEI.
- Second, the calculation of 0.7 percent as the amount of the fee is based on a proxy for costs
- 27 and activities that are relevant in the context of Surrey. The build up of the calculation is set out
- 28 in FEI's Application, and references FEI's and Surrey's respective costs.



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1 4.0 Reference: Exhibit B1-1, pp 16-17, Operating Fees with Inland and Vancouver Island Municipalities

3 On page 17, FEI states:

FEI is not aware of any information setting out the basis or methodology used to determine the 3 percent amount, or any supporting information identifying how this amount was determined or derived.

4.1 Does FEI believe that the 3% (of Gross Revenues) Operating Fees currently in place were <u>entirely</u> the result of negotiations with Inland and Vancouver Island Municipalities?

Response:

As discussed in Section 3.3.3.2 of the Application, the 3 percent Operating Fee on Gross Revenues in the Inland and Vancouver Island regions existed in operating agreements between FEI's predecessor companies and the municipalities. As a result, the Company inherited the existing operating agreements which contained this provision. FEI has no knowledge as to whether the origin of that figure was the result of negotiations or not, nor is FEI aware of any information setting out the basis, methodology, or derivation of that amount.

4.2 Other than the events described by FEI on pages 18-19 of the Application, have there been any attempts historically to evaluate or revise the 3% fees since their inception with any of the affected municipalities with respect to their continuing appropriateness in respect of actual costs incurred, cost causation, etc.? If so, please describe.

Response:

No. FEI and its predecessor companies have adhered to agreements for the duration of their terms. Upon expiry, the parties negotiated new terms and submitted any disputes to the Commission. The context for negotiations was that the municipalities involved all had previous operating agreements with the legacy Operating Fee calculated on that basis. The details of negotiations from years ago are not known by current staff. FEI accepted the Operating Fee as part of an overall package in that context.



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5.0	Reference:	Exhibit B1-1, page	2 19,	Operating Fee
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2 The referenced page states:

The implementation of an Operating Fee in Surrey based on 3 percent of gross revenues would result in a 3.09 percent bill increase for all of FEI's customers within the Municipality. Calculating the Operating Fee based on 3.09% of total revenues for 2016 results in a fee of \$3.8 million paid to the City, which is in excess of any reasonable amount that should be paid for the services provided.

and Advisory Centre et al. (BCOAPO) Information Request (IR) No. 1

5.1 Please provide the percentage of 2016 Surrey Gross Revenues comprised by Operating Fees.

Response:

- 12 In 2016 FEI's customers in the municipality of Surrey did not pay Operating Fees.
- 13 Please refer to the response to BCUC IR 1.5.3, column 6 for an estimate of the Operating Fees
- 14 FEI would have collected from FEI's Surrey Customers, and remitted to the City of Surrey, if
- 15 FEI's proposal had been in place for 2016.

5.2 If available, please provide comparable 2016 percentages for the municipalities currently receiving an Operating Fee of 3% of Gross Revenues.

Response:

23 Please refer to the response to BCUC IR 1.4.2 for list of comparable percentages.



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6.0 Reference: Exhibit B1-1, page 20, Responsibility for Upgrade/Betterment Costs

2 The referenced page states:

> FEI's position is that relocation costs paid by the party requesting relocation should exclude the value or incremental costs of any upgrading and/or betterment of the party's facilities or the facilities of third parties "beyond that which is required to comply with applicable Laws or sound engineering practices". FEI submits that the inclusion of the quoted caveat is fair, reasonable and reflects cost causation.

> Is there a possibility under FEI's proposal that - even if its proposal and language were approved as proposed by FEI - that subsequent disputes as to the quanta of costs 'required to comply with law or sound engineering practices' might require litigation to resolve, the costs of which (i.e., FEI, Surrey, regulatory, legal, adjudicative, etc.) would fully offset FEI's estimated avoided litigation expenses under its proposal? Please discuss.

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Response:

- 16 There is always a possibility that a dispute could arise, but FEI believes the proposed processes 17 will help to reduce the issues and resolve issues when they arise.
- 18 Costs are managed, for instance, through the framework incorporated into the relocation
- 19 provisions of the Proposed Operating Agreement. That framework expands the provisions from
- 20 those contained in the Standard Operating Agreement to include a detailed scope identification
- 21 and cost determination and management process.
- 22 While there will be additional time and resources expended by FEI to provide: (i) the detailed
- 23 drawings required in the approval provisions of the Proposed Operating Agreement; and (ii) the
- 24 detailed estimates as required in the relocation provisions of the Proposed Operating
- 25 Agreement (neither of which is contained in the Standard Operating Agreement), it is anticipated
- 26 the early identification of the scope of work and materials and the estimate of costs should, over
- time, reduce the number and scope of disputes, which, when coupled with the assumed benefits 27
- 28 of the detailed requirements for the approval process, should limit FEI's potential expenses
- 29 associated with resolving disputes.
- 30 The Proposed Operating Agreement also put in place a dispute resolution framework that is
- 31 conducive to the efficient resolution of issues that arise. Section 8.4(f) of the Proposed
- 32 Operating Agreement (refer to FEI's Application, Appendix A) states the dispute of an invoiced
- 33 amount may be referred to dispute resolution as provided in Section 17 of the Proposed
- 34 Operating Agreement. Please refer to the response to BCUC IR 1.6.4 for further details.



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7.0 Reference: Exhibit B1-1, page 22, Release of Statutory Rights of Way

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2 The referenced page states:

FEI is prepared to consider requests on a case by case basis, but is not prepared to provide a blanket waiver of its rights. In instances where FEI agrees to release its statutory right of way interest without requiring the Municipality to exercise its rights of expropriation, it will effect that process in a timely manner and without expectation of compensation from the City.

7.1 Has FEI ever been asked to provide a blanket waiver of its RoW rights? If so, please describe.

Response:

FEI has never been asked by another municipality to provide a blanket waiver of its SROW rights. A blanket waiver of FEI's SROW rights would not be in the best interests of our customers who rely on the natural gas distribution system, since such a waiver would not enable FEI to assess the impact of the release of rights.

There are a number of considerations that should inform each request to release all or any portion of FEI's SROW rights, such as the relative size of the affected SROW area, continued access, operational and maintenance requirements, safety, future expansion, and code compliance.

7.2 Is FEI aware of any utilities operating in BC providing a blanket waiver of such rights?

Response:

FEI is not aware of any other utilities operating in BC providing a blanket waiver of such rights.



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8.0 Reference: Exhibit B1-1, pp 23-24, Benefits to FEI's Customers in Surrey

8.1 Please confirm that under FEI's the proposal, other things equal, will increase rates to Surrey customers as compared to the status quo. If unable to so confirm, please explain fully.

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Response:

- 7 Under FEI's proposal, if approved by the Commission, customers in Surrey will see an additional line item added to their bill. FEI will be forwarding the funds collected to the City.
- 9 Please refer to the response to BCUC IR 1.5.2 which provides the bill impact of FEI's proposal.
- 10 While Surrey customers will see an increase to their bills, FEI has proposed the 0.7 percent
- 11 Operating Fee on Delivery Margin as a way to recognize there are administrative steps the City
- must take as a result of FEI operating within the City and that FEI is avoiding costs and potential
- 13 disputes. On the latter point, we expect that, in the absence of an agreement, Surrey would
- seek to levy permit fees and charges and the dispute on that point would remain unresolved.
- 15 While FEI believes that an Operating Fee at the level FEI has proposed makes sense for
- 16 customers, the City of Surrey's proposal would increase rates by an amount that cannot be
- 17 justified on a principled basis.

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8.2 Does FEI have any evidence that would indicate that Surrey ratepayers will receive an overall net benefit under the proposal as opposed to the status quo?

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Response:

In Section 2.3.1 of FEI's Application, FEI describes its objectives for entering into discussions with Surrey. FEI believes the Proposed Operating Agreement will improve FEI's ability to operate within the municipality and improve its relationship with Surrey, while providing cost predictability, administrative efficiencies, improved scheduling, and reduced time to serve customers. Most of these benefits (those that translate into cost savings) apply to all FEI customers, including FEI customers in Surrey. Some of the service-related benefits (scheduling/reduced time to serve) relate specifically to FEI's customers in Surrey. Please refer to Section 4.1 of FEI's Application for more details on the benefits of the Proposed Operating Agreement for Surrey customers.

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8.3 Does FEI have any evidence that would indicate that Surrey ratepayers are willing to pay what will be required under FEI's proposal?

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In the response to BCUC IR 1.5.2, FEI discusses the bill impacts to customers of both FEI's proposal, and that of the City of Surrey. FEI has no evidence to indicate that Surrey ratepayers are willing to pay what will be required under FEI's proposal; however, absent an Operating Fee based on FEI's proposal, we expect that overall costs will go up for all customers as a result of increasing costs of work in Surrey. FEI is sensitive that any rate increases are not desirable for customers. FEI's interests are aligned with customers in that fees added to customer bills represent a competitive challenge. FEI believes its proposal reasonably balances the needs of Surrey while keeping the direct impact to Surrey customers as low as possible.

8.4 Please describe the methodology proposed to allocate the rate increases attendant with FEI's proposal among rate classes.

Response:

There are no general rate increases with FEI's proposal. The proposal includes a separate charge for FEI's customers located in the municipality of Surrey and the amounts collected will be remitted to the City of Surrey as described in Section 3.3.2 of the Application. FEI's proposal is for a charge as a percentage of Delivery Margin revenue on a customer's bill, regardless of the customer's rate schedule. Please also refer to the response to BCUC IR 1.3.1.